

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #9	CCRB Case #: 201703876	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 06/19/2016 2:00 AM	Location of Incident: § 87(2)(b)	Precinct: 43	18 Mo. SOL 12/19/2017	EO SOL 12/19/2017	
Date/Time CV Reported Tue, 05/16/2017 1:29 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 05/16/2017 1:29 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Vuoso	12219	953543	HWY DST
2. POM Gregory Kennedy	26842	948364	043 PCT
3. POM Kiel Sui	07315	952274	043 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Amanda Szot	5413	946306	PSA 8
2. POM Adam Gonzalez	2677	954879	HBXQ RT
3. POM Eli Manzanet	08341	957805	PSA 8
4. POM Michael Alpers	18406	958234	PSA 8
5. POM Patrick Lewis	25174	932896	PSA 8
6. POF Crystal Romero	31314	953336	NARCBMS
7. POM Kevin Pamphile	12762	954207	HBXQ RT
8. POM Mark Scott	08524	958062	PSA 8

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Vuoso	Force: Police Officer Michael Vuoso fired his gun at § 87(2)(b)	§ 87(2)(b)
B.POM Gregory Kennedy	Force: Police Officer Gregory Kennedy fired his gun at § 87(2)(b)	§ 87(2)(b)
C.POM Kiel Sui	Force: Police Officer Kiel Sui fired his gun at § 87(2)(b)	§ 87(2)(b)

Case Summary

On May 16, 2017, non-witnessing complainant § 87(2)(b) filed this complaint in person at the CCRB on behalf of her deceased son, § 87(2)(b).

On June 19, 2016, at approximately 2:00 a.m., PO Michael Vuoso of Highway District 1 (formerly of Housing Bureau Bronx Impact Response Team), PO Gregory Kennedy of the 43rd Precinct, and PO Kiel Sui of the 43rd Precinct shot and killed § 87(2)(b) in front of § 87(2)(b) in the Bronx (**Allegations A, B, and C: Force**, § 87(2)(g)). This incident is captured on NYCHA surveillance footage (Board Review 01) as well as on a video filmed by a § 87(2)(b) employee working nearby (Board Review 02).

Findings and Recommendations

Allegation A – Force: Police Officer Michael Vuoso fired his gun at § 87(2)(b)

Allegation B – Force: Police Officer Gregory Kennedy fired his gun at § 87(2)(b)

Allegation C – Force: Police Officer Kiel Sui fired his gun at § 87(2)(b)

§ 87(2)(b) (Board Review 03), § 87(2)(b)'s cousin, did not witness the incident but stated that on June 17, 2017, § 87(2)(b) was behaving oddly (“spaced out”) after smoking marijuana that she believed was laced. § 87(2)(b) had told her that he stopped taking his medication for depression “a couple of” weeks prior to the incident. § 87(2)(b)'s son called an ambulance for § 87(2)(b) and he was taken to § 87(2)(b) and released less than one hour later. § 87(2)(b) returned home and told § 87(2)(b) that nothing was found in his system. However, § 87(2)(b) was in an emotional state and would repeatedly start and stop crying. Prior to the shooting, § 87(2)(b) spoke to his son’s mother, whom he was angry at, over the phone. § 87(2)(b) left the apartment, and then § 87(2)(b)'s husband, § 87(2)(b), received a phone call from his son, who told him that § 87(2)(b) had been killed.

In his medical records from § 87(2)(b) dated June 17, 2017 (Privileged Documents 01), § 87(2)(b)'s chief complaint was, “Acting strange after smoking laced pot.” § 87(2)(b) was assigned to the waiting area, and his name was called three times, but he did not respond. § 87(2)(b)'s discharge from the hospital was classified as “routine.”

In her statement to the Force Investigation Division (Board Review 04), witness § 87(2)(b) stated that she was in her apartment when she heard two gunshots on June 19, 2016. § 87(2)(b) then heard § 87(2)(b) yelling as though he was arguing with someone. She looked out her window and saw that § 87(2)(b) had a firearm in his hand. She looked to see who § 87(2)(b) was talking to, but no one else was in the area. § 87(2)(b) called 911, and she saw several officers, identified as PO Vuoso, PO Kennedy, PO Sui, and PO Adam Gonzalez of Housing Bureau Bronx Impact Response Team, approach § 87(2)(b) on foot. The officers told § 87(2)(b) to drop his firearm, and § 87(2)(b) told them that he would shoot them or himself if they approached him. § 87(2)(b) backed away from her window and then heard gunshots, but she did not know who shot first. When the gunfire ended, § 87(2)(b) returned to her window and saw § 87(2)(b) on the ground. § 87(2)(b) was on the phone with the 911 operator for the duration of this incident, and a recording of her conversation with the 911 operator was obtained (Board Review 05). The account of the incident she gave to the 911 operator is consistent with her statement to FID. The undersigned was unable to establish contact with § 87(2)(b).

In the NYCHA surveillance footage (Board Review 01), § 87(2)(b) can be seen raising his left hand, in which he is holding a dark object, determined by the investigation to be a firearm, and pointing it in the direction of the police officers, who are not visible in the frame. Two seconds later, he lowered the firearm, raised it again, pointed it towards the officers, and took three steps towards the officers. § 87(2)(b) then turned around, lowered the firearm, and walked away from the officers and towards the front entrance of § 87(2)(b). After taking nine steps, § 87(2)(b) collapsed to the ground. Approximately 35 seconds later, PO Vuoso, PO Kennedy, PO Sui, and PO Gonzalez entered the frame from the west and walked towards § 87(2)(b) with their firearms pointed towards him.



201706223_20171102_1754_DM.mp4

In the video filmed by a § 87(2)(b) worker and obtained from FID (Board Review 02), officers can be heard shouting, “Drop the gun,” at least four times. A loud, repeating “clanking” noise is also heard. A barrage of gunfire follows, and the video ends abruptly during the gunfire. The area was dark and the video was filmed from across the courtyard, so only silhouettes are visible, and the videographer ducked for cover once the gunfire began.



201703876_20171201_0947_DM.mp4

§ 87(2)(b)

PO Vuoso’s, PO Gonzalez’s, PO Kennedy’s, and PO Sui’s statements to FID and the CCRB (Board Review 06 to 13) were generally consistent. They all stated that they received a radio run for a Shot-Spotter activation at § 87(2)(b). The Shot-Spotter detected that two gunshots had been fired. PO Vuoso and PO Gonzalez were the first officers to arrive at the scene. They entered the § 87(2)(b) Houses and approached two § 87(2)(b) workers, identified by the Force Investigation Division as § 87(2)(b) and § 87(2)(b) who said they did not see or hear anything suspicious. PO Vuoso and PO Gonzalez then approached § 87(2)(b) where they saw § 87(2)(b) pacing back and forth in front of the building with a firearm in his hand. PO Gonzalez stated that § 87(2)(b) yelled, “Don’t come near me,” “I’ll kill you guys,” “Fuck you guys,” and, “I’ll fuck you guys up.” PO Vuoso did not recall any specific statements that § 87(2)(b) made. PO Vuoso and PO Gonzalez drew their firearms and pointed them towards § 87(2)(b). PO Vuoso and PO Gonzalez ordered § 87(2)(b) to drop his firearm numerous times, but he refused to comply.

PO Kennedy and PO Sui arrived on scene, and as soon as they stopped their vehicle, they heard PO Vuoso and PO Gonzalez yelling at § 87(2)(b) to drop his firearm. PO Kennedy and PO Sui joined PO Vuoso and PO Gonzalez, pointed their firearms at § 87(2)(b) and ordered § 87(2)(b) to drop his firearm. § 87(2)(b) continued to disregard the officers’ orders and dragged his firearm

against a wrought-iron fence at the edge of the pedestrian walkway. § 87(2)(b) then raised his firearm and pointed it towards the officers.

PO Vuoso fired one shot towards § 87(2)(b) and then stopped firing to reassess the situation. § 87(2)(b) raised his firearm and pointed it towards the officers again, and then PO Vuoso, PO Kennedy, and PO Sui discharged their firearms at § 87(2)(b) until he collapsed onto the ground. A total of 31 rounds were fired at § 87(2)(b) four of which struck him. PO Gonzalez, who was in front of the other officers, ducked to avoid being struck by the gunfire, and he did not discharge his firearm. None of the officers recalled § 87(2)(b) discharging his firearm in their presence.

According to Patrol Guide Procedure 221-01 (Board Review 14), “The use of deadly physical force against a person can only be used to protect MOS and/or the public from imminent serious physical injury or death.”

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) and § 87(2)(b) are involved (Board Review 15).
- PO Michael Vuoso has been a member of the NYPD for five years and is not the subject of any additional CCRB allegations (Board Review 16).
- PO Gregory Kennedy has been a member of the NYPD for eight years and is the subject of 22 additional CCRB allegations involving nine cases with two substantiated allegations (Board Review 16). § 87(2)(g).
 - In case number 201403575, PO Kennedy was the subject of Abuse: Stop and Abuse: Retaliatory Summons allegations which were closed as substantiated. The CCRB recommended a penalty of Command Discipline B and the NYPD imposed a penalty of Command Discipline A.
- PO Kiel Sui has been a member of the NYPD for five years and is the subject of eight additional CCRB allegations involving three cases with no substantiated allegations (Board Review 16). None of these allegations indicate any pattern applicable to this case.

Mediation, Civil and Criminal Histories

- This case is ineligible for mediation due to the death of § 87(2)(b) [REDACTED]
 - As of November 22, 2017, no notice of claim has been filed by § 87(2)(b) [REDACTED] or anyone else in regards to this incident (Board Review 17).
 - § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]
[REDACTED]
[REDACTED]
 - § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
-

Squad: 9

Investigator:			
	Signature	Print	Date

Squad Leader:			
	Title/Signature	Print	Date

Reviewer:			
	Title/Signature	Print	Date